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On the Improvement of the Administrative Reconsideration Committee System of China: From the Quasi-Judicial Perspective

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Abstract

In China, the citizens can get administrative remedies through the administrative reconsideration, administrative litigation and complaint letters and visits. Compared with the lawsuits, the administrative reconsideration system as a most important way of the remedies is convenient, effective and free. Compared with the complaint letters or visits, the administrative reconsideration also has the guarantee of a legal procedure. However, in real life, the phenomenon is “Many people like the complaint letters and visits, some people like the lawsuits and a few people like the reconsideration.” So the administrative reconsideration system does not give full play to its advantage, and the key reason is that the administrative reconsideration system tends to have the more administrative character in our nation, contrary to the international trend of approaching the more judicial reconsideration, so that the credibility of the administrative reconsideration has been questioned, and citizens are not willing to settle disputes through the administrative reconsideration. In order to solve these problems, the author puts forward suggestions on improving our nation’s administrative reconsideration system in the background of the quasi-judicial system of the administrative reconsideration.

Key words: Administrative reconsideration; Quasi-judicial; Administrative reconsideration committee

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INTRODUCTION

So far, the administrative reconsideration system has been running for more than 20 years in China, but the effect is not perfect in the past 20 years. One of the important reasons is that the administrative reconsideration system has more administrative characteristics in our nation, contrary to the international rhythm of approaching the more judicial reconsideration. The *Administrative Reconsideration Law* more focused on the supervision of different levels, ignoring the function of resolving disputes. There are also other problems, such as the administrative reconsideration offices are not independent and unified, and the personnel are not professional. These problems let people do not trust the justice of administrative reconsideration, so the convenience of the administrative reconsideration is not recognized by people, and the effect is not perfect.

On December 24, 1990, the State Council promulgated the *Regulations on Administrative Reconsideration*. After the administrative reconsideration system had developed for nearly nine years, on April 29, 1999, the ninth meeting of the Standing Committee of the Ninth National People’s Congress passed the *Administrative Reconsideration Law of the People’s Republic of China* (hereinafter referred to as the *Administrative Reconsideration Law*). The law was officially implemented on October 1 in the same year so the *Regulations on Administrative Reconsideration* was replaced by the *Administrative Reconsideration Law*. It showed the further development of our nation’s administrative reconsideration system. However, in fact, the promulgation of the *Administrative Reconsideration Law* had a more profound reason, namely the *Regulations on Administrative Reconsideration* was ineffective. The purpose of drafting the *Administrative Reconsideration Law* was to enhance the function of administrative reconsideration and improve the system (Liu, 2013).

At the beginning of the implementation of the *Administrative Reconsideration Law*, the numbers of

cases of administrative reconsideration had been steadily increasing, and the numbers of cases were 32,170 in 1999, 74,448 in 2000, and 83,487 in 2001¹. In China, the administrative reconsideration system is defined as a self correction and internal supervision system. Because of avoiding the “judicial reconsideration”, it has not developed according to the design ideas of the lawmakers at the beginning. Its functions have not worked well and it has not shared the pressure of first instance cases of administrative courts by its advantages. In the next few years after the implementation, the cases had gradually reduced, although reached 110,543 in 2012, but the number of cases of administrative reconsideration has been smaller than the number of first instance cases of administrative litigation. In the United States, South Korea, Japan and other countries, the numbers of

administrative reconsideration cases are more bigger than the numbers of the administrative litigation cases, the United States is 24:1, Japan is about 8:1, and South Korea is about 7:1 (Liu, 2007). The president Ying Songnian of the China Administrative Law Society said: “Under normal circumstances, the administrative reconsideration should be the preferred way for citizens resolving their disputes, and the number of cases should be several times more than the number of administrative litigation cases.”²

In our nation, the administrative reconsideration system does not play a larger role in resolving administrative disputes. The main reason is that the lawmakers did not confer a judicial function to the administrative reconsideration system at the beginning of the design. It led to the unreasonable setting of the administrative reconsideration offices in China.

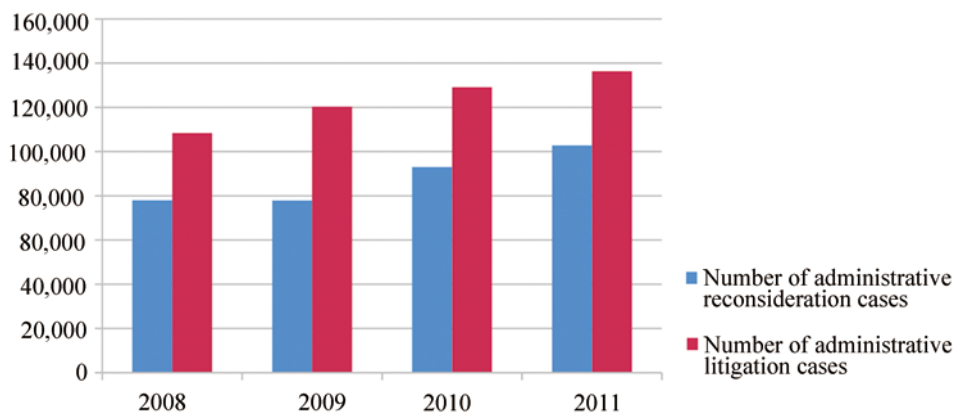


Figure 1
The Comparison of the Number of Administrative Reconsideration Cases and the Number of Administrative Litigation Cases in 2008-2011 Year³

1. THE BASIC THEORY OF JUDICIAL ADMINISTRATIVE RECONSIDERATION

1.1 The Concept of Judicial Administrative Reconsideration

In our nation, scholars think that the nature of the administrative reconsideration has three ways, namely, administrative, judicial and quasi-judicial ways (some scholars also call it as the administrative justice). The so-called administrative way is that the scholars think the administrative reconsideration is the special administrative acts and a kind of administrative activities, which reflect the administrative power of the state organs. In this view, administrative reconsideration offices have the rights to correct original specific administrative decisions made by the lower-level offices which generally are subordinates of the administrative reconsideration organs. An applicant of administrative reconsideration also is managed by the administrative reconsideration office. In resolving a

dispute between an administrative department and the administrative counterparty, the exercise of power is the exercise of administrative power, which is no final legal effect. When the applicant filed an administrative lawsuit, the related administrative organ and the administrative reconsideration office can together become the defendants. The so-called judicial way is that the scholars think that the administrative reconsideration has the form of administrative acts, but it actually is a kind of judicial acts. Administrative reconsideration is a kind of judicial remedies, which aims to resolve administrative disputes by following the principles of justice and the judicial procedure, and to protect and remedy the legal rights and interests of citizens, legal persons and social organizations. The administrative reconsideration offices are special organizations in the administrative system. An administrative reconsideration office has its notary and is independent in the administrative system. It obviously has

¹ The data are from the Legislative Affairs Office website of the State Council, Retrieved from <http://www.chinalaw.gov.cn/article/xzfy/wtjd/>

² The information is quoted from the China Youth Daily, October 13, 2009.

³ The data are from the Legislative Affairs Office website of the State Council, Retrieved from <http://www.chinalaw.gov.cn/article/xzfy/wtjd/>, <http://www.court.gov.cn/fabu-gengduo-21.html>

the characteristics and functions of judicial institutions, reflected in the administrative reconsideration jurisdiction, the time limit of the application for reconsideration, the principle of no suit if not bring, the participants for reconsideration, the procedure of reconsideration and so on. So the acts of the administrative reconsideration essentially are the judicial acts which are carried out by the specific administrative agencies. The so-called Quasi-judicial way is also known for the administrative justice and the scholars think that the administrative reconsideration has the characteristics of the judicial fairness and the procedure, etc., has the efficiency of administrative management at the same time, and is a kind of quasi-judicial acts with dual nature and characteristics. Administrative reconsideration has an obvious administrative nature when we consider participants' characters in administrative reconsideration, the ruling results, the relationships of participants; but it also has the obvious judicial characteristics when we consider the reconsideration remedy purpose, the resolving dispute purpose, the arbitration acts, the procedure and so on; if we combine the judicial process and the administrative result of the reconsideration, we may think that administrative reconsideration is a kind of acts with quasi-judicial nature.

In view of the above administrative reconsideration ways, the author thinks that the administrative reconsideration has a quasi-judicial character. However, the administrative reconsideration has a quasi-judicial character that does not mean to copy the judicial procedure, but to resolve disputes by using the independence and impartiality of the judicial procedure and offer maximum protection of citizens' legitimate rights and interests. The author thinks that the quasi-judicial administrative reconsideration should include the following characteristics: First, an administrative reconsideration office must have independence. Its independence means that the process of the administrative reconsideration should not be affected by the outside people and the administrative reconsideration personnel should make a decision of reconsideration independently and fairly according to the law. In this situation, the administrative reconsideration offices are still subject to administrative authorities, but they should be independent and can guarantee the impartiality of the reconsideration results. The personnel of an organization of administrative reconsideration should also obtain a corresponding protection so they make a decision completely in accordance with the law and justice without the interference of other administrative organs. Second, the procedure of administrative reconsideration must be open and fair. The procedure of administrative reconsideration should be public and it should guarantee the right of application for reconsideration, the right of equal participation, the right of withdrawal and the right of appeal to the judicial proceedings after the

reconsideration. Third, the result of the administrative reconsideration should have the quasi-judicial effect. When the applicant of the reconsideration is not satisfied with the result and appeal to the judicial proceeding after the reconsideration, the judicial organ should give respect to the decision of administrative reconsideration. If the subsequent judicial procedure does not give any respect to the decision of administrative reconsideration which has a strict reconsideration process and an ordinary court will do a comprehensive reconsideration again, it will cause the waste of social resources, and will also affect the professional judgment on professional issues in the administrative reconsideration and the work of administrative reconsideration (Zhou, 2005).

1.2 The Models of Judicial Administrative Reconsideration

The models of judicial administrative reconsideration have three: the model of the administrative court, the dual system and the quasi-judicial model.

The implementation of administrative court model may become a biggest reform of the system. If we run this reform, the existing administrative litigation and administrative reconsideration offices will form a new administrative institution: the administrative court. The administrative court system will ensure the independence and impartiality of the administrative remedy, but it will affect the efficiency of administrative remedy. It means to abolish the reconsideration right of the court system for administrative disputes and the administrative tribunals are canceled. The establishment of administrative courts is based on the original decentralized government legal offices. The administrative courts, administrative organs and courts do not subject to each other and the administrative courts will run independently. The advantages of the model of the administrative court are that administrative disputes can be handled independently and fairly, and it also is in line with the tradition of our law system and conducive to controlling the corruption and tyranny caused by the excessive power of the court system. The disadvantages are that it has too many differences from the existing administrative litigation system, and it will face great resistance in changing the existing system and concepts, adding the uncertainty. At the same time, it also has the supervision and controlling problems after the increase of the rights of the administrative courts. Moreover, it also violates the original intention of the administrative reconsideration, which is supposed to share the pressure of administrative litigation.

The dual system is an idea that allows the existing reconsideration offices to run independently. Let the finance and personnel of administrative reconsideration offices to be independent to reduce the influence of the authorities or subordinates on administrative reconsideration offices when the existing administrative

reconsideration offices do not separate from the administrative organ system. In a few special areas and the vertical management departments (such as customs, finance, taxation, etc.), we should introduce independent administrative reconsideration offices, which are different from general administrative organs. When conditions are ripe, we can gradually expand independent reconsideration bodies in the fields and reach a complete independence of the reconsideration. Although this model will gradually push the reconsideration to become independence, it is not easy to achieve the financial and personnel independence for staying in administrative organs. Moreover, in current circumstances, administrative organs can also affect the reconsideration offices in other aspects. In a few special areas, setting independent administrative reconsideration offices have their own particularity and their experience may not be introduced to other areas, further more, if the samples are few, it is not correct.

The quasi-judicial model is between the above two models. On the basis of the existing administrative reconsideration and the administrative litigation, the quasi-judicial model will be a joint reform which will change the existing administrative offices and their rights to set up more independent reconsideration offices or reconsideration committees for enhancing the transparency and independence of the administrative reconsideration. This reform will not only ensure the fairness and justice of the administrative reconsideration, but also ensure the reconsideration efficiency. At this stage, it will give a good supplement to the administrative litigation.

In the above three models, at present, it is more suitable to develop the quasi-judicial model in our nation. At present, our nation also actively explores the model in practice, namely, through the establishment of relatively independent administrative reconsideration offices—the administrative reconsideration committees, let the right of the administrative reconsideration be relatively concentrated so that it will separate the functions and power of the administrative reconsideration offices from the administrative organs.

1.3 The Legal Basis of Quasi-Judicial Administrative Reconsideration

The quasi-judicial administrative reconsideration originated from theories and practice of some foreign countries. The administrative reconsideration is an important administrative dispute resolution mechanism, and many countries and regions have the similar systems, such as the United States' administrative law judge system, the Britain's administrative tribunal system, the administrative trial system in the Republic of Korea, the Japanese administrative appeal system and the China Taiwan's appeal system and so on. The common legal principle of these similar systems is the principle of natural justice. The principle of natural justice is an important principle of British administrative law, mainly

includes two basic rules of procedure: first, a person will not judge a case in which he is himself interested; second, the person concerned must be heard before a decision is taken. Thus, the quasi-judicial administrative reconsideration is the basic requirement of the principle of natural justice.

2. THE CURRENT PROBLEMS OF OUR NATION'S ADMINISTRATIVE RECONSIDERATION OFFICES

On December 24, 1990, the State Council promulgated the *Regulations on Administrative Reconsideration* and the article 23 provided: "The administrative organ for reconsideration should, in light of the needs of its work, establish the reconsideration office, or appoint full-time personnel that handle reconsideration cases, for the organ itself." The regulations determined the legal status of the reconsideration offices. In accordance with the regulations, most places of the nation had established specialized administrative reconsideration offices and given the administrative reconsideration personnel. On April 29, 1999, the meeting of the Standing Committee of the Ninth National People's Congress passed the *Administrative Reconsideration Law of the People's Republic of China*, but it was different from the "Regulations on Administrative Reconsideration" and it canceled the article related to the administrative reconsideration office setting. The law just generally mentioned in the article 3 of the general provisions: "Administrative organs performing their duties of administrative reconsideration in accordance with this Law are administrative reconsideration organs. The offices are responsible for legal affairs within administrative reconsideration organs should handle concrete matters related to administrative reconsideration". Throughout the law, we can not find that the law gave provisions on the reconsideration office setting and the reconsideration personnel qualification, so some scholars believed that the law was backwards in the independence aspect of administrative reconsideration offices compared with the "Regulations on Administrative Reconsideration" (Liu, 2001, p.314). On August 1, 2007, the State Council promulgated the *Regulations for the Implementation of Administrative Reconsideration Law of the People's Republic of China* and it had new requirements for administrative reconsideration organs, such as the article 2 provided:

The administrative reconsideration organs at all levels should conscientiously perform their duties of administrative reconsideration, lead and support their offices which are responsible for legal affairs (hereinafter referred to as the administrative reconsideration offices) to handle the matters related to administrative reconsideration in accordance with the law and equip, supply and adjust full-time administrative reconsideration personnel according to the relevant provisions to

ensure the administrative reconsideration offices handling ability to match the tasks.

However, it is worth noting that the *Regulations for the Implementation of Administrative Reconsideration Law* was the bylaw of the *Administrative Reconsideration Law* and it was limited by the *Administrative Reconsideration Law*, so the improvement of the administrative reconsideration offices is still limited.

In summary, we can know that the administrative reconsideration offices have had a long development process and people paid attention to them in the beginning, then ignored them, pay attention to them again. Although some breakthroughs eventually made in the administrative reconsideration office setting, I believe that there still exist the following problems in the legislation and practice of the administrative reconsideration offices at present:

2.1 The Lack of Independence of the Administrative Reconsideration Offices

The article 3 of the “Administrative Reconsideration Law” stipulated: “Administrative organs performing their duties of administrative reconsideration in accordance with this Law are administrative reconsideration organs. The offices are responsible for legal affairs within administrative reconsideration organs should handle concrete matters related to administrative reconsideration.” Thus, an administrative reconsideration office is the inside agency of the administrative reconsideration organ (the administrative reconsideration office generally refers to the legislative affairs office). The article 28 also provided that:

The office is responsible for legal affairs of an administrative reconsideration organ should examine the specific administrative act undertaken by the respondent of the application, put forward its opinions and make the decision of administrative reconsideration after the approval of the responsible persons of the administrative reconsideration organ or the assent after the group discussion.

Thus, a decision of the administrative reconsideration case is decided by the administrative reconsideration organ, and the administrative reconsideration office can not have the independent decisions. Whether administrative reconsideration cases are accepted or not accepted, upheld, revoked or changed, the administrative reconsideration offices can only give recommendations, but not make decisions. The independence of the reconsideration offices can not be guaranteed and the justice of the offices is doubtful.

2.2 The Lack of the Unity of the Administrative Reconsideration Offices

The *Administrative Reconsideration Law* did not have specific provisions for the setting of administrative reconsideration offices in our nation, so it leads to the departments of the State Council, the provincial governments and the county governments all accepting the cases of administrative reconsideration and the

administrative reconsideration offices are too scattered. It is lack of the unity. Some organizations have their own legal work, but also have to deal with a large number of administrative reconsideration cases, and the staff is a few and too busy. Some agencies have no cases to handle. For example, in 2013, 54 departments of the State Council received a total of 5,961 cases of administrative reconsideration, among them, the Ministry of Housing and Urban-Rural Development received 872, the Ministry of Land and Resources received 679, the State Administration for Industry and Commerce received 519, the Ministry of Culture only received 2, and the National Railway Administration only received 1⁴. In conclusion, various functional departments have the administrative reconsideration offices so the administrative reconsideration forces are too scattered, and it also hampers the development of administrative reconsideration system.

2.3 It Is Shortage of the Professionals

In China, a lot of administrative reconsideration personnel concurrently are the staff of the legislative affairs office because the *Administrative Reconsideration Law* did not have provisions for the personnel qualifications, the number of the personnel and so on of administrative reconsideration offices. With the improvement of people’s legal awareness, the professional level also is higher in all kinds of disputes. If the administrative reconsideration personnel do not have a good legal training and the expertise, they are very difficult to do competent work in the reconsideration, so, in practice, the quality of the reconsideration cases can not be guaranteed.

3. THE ANALYSIS OF THE PILOT REFORM OF THE ADMINISTRATIVE RECONSIDERATION COMMITTEES IN SOME REGIONS OF CHINA

In view of the present situations and the existing problems of the administrative reconsideration offices in China, the Legislative Affairs Office of the State Council issued “The Notice of the Legislative Affairs Office of the State Council on Carrying out the Pilot Work of the Administrative Reconsideration Committees in Some Provinces and Municipalities directly under the Central Government” on September 16, 2008⁵, decided to carry out a pilot work of administrative reconsideration committees in 8 provinces and municipalities and explored the model of setting up the administrative reconsideration

⁴ The data are from the Legislative Affairs Office website of the State Council, <http://www.chinalaw.gov.cn/article/xzfy/wtjd/>

⁵ The Notice of the Legislative Affairs Office of the State Council on Carrying out the Pilot Work of the Administrative Reconsideration Committees in Some Provinces and Municipalities directly under the Central Government”, <http://www.qhfbz.gov.cn/html/387/51307.html>

offices. Pilot areas include Beijing City, Heilongjiang Province, Shandong Province, Jiangsu Province, Henan Province, Guangdong Province, Hainan Province and Guizhou Province. Working with its own situations, each pilot area explores the different administrative reconsideration system reform. Although some results have been achieved, there are also some shortcomings.

3.1 The Exploration of the Reform of the Administrative Reconsideration Committee System in China

3.1.1 Explore the System of Administrative Reconsideration

In the pilot areas, the relatively independent models of the administrative reconsideration committees are generally adopted to take back the right of administrative reconsideration from administrative reconsideration offices and give the right to the administrative reconsideration committees, and the approach solves the problem of decentralized administrative reconsideration offices in a certain extent.

For the administrative reconsideration cases, Jinan city of Shandong Province implements the work model of the “centralized acceptance, centralized examinations, and centralized decisions”. The administrative reconsideration applications of citizens, legal persons or other organizations are all accepted by the office for the administrative reconsideration, which reviews the cases in accordance with the relevant provisions. Finally, the office makes administrative reconsideration decisions and sends them to the parties concerned on behalf of the municipal government. Other departments of the municipal government will not accept the cases of administrative reconsideration.

Henan Province provides that the office of a pilot unit no longer accepts and hears the administrative reconsideration cases and the new administrative reconsideration committee deals with all cases. In the name of the legal administrative reconsideration organ, the committee makes decisions of administrative reconsideration.

3.1.2 Reform the Operational Mechanism of Administrative Reconsideration

According to the difficulty degree of a case, Henan province adopts the different operating models in order to improve the quality of the administrative reconsideration. According to the difficulty degree of a case, cases may be divided into general cases, major and complicated cases, and cases with social impacts. For a general case, the office under the administrative reconsideration committee directly reconsiders the case and makes a reconsideration decision in the name of the administrative reconsideration organ; for a major or complicated case, the office under the administrative reconsideration committee first hears, then gives a preliminary opinion and report to the administrative

reconsideration committee, after the administrative reconsideration committee agrees, a decision is made in the name of the administrative reconsideration organ; for a case with social impacts, based on the administrative reconsideration committee hearing, after the head of the administrative reconsideration organ approves the decision or the collective discussion of the reconsideration committee members, a final decision is made in the name of the administrative reconsideration organ.

Beijing City provides that an administrative reconsideration committee has an administrative reconsideration office, which is responsible for handling daily affairs and general administrative reconsideration cases; major and complicated cases are handled by the meetings of the administrative reconsideration committee monthly.

3.1.3 Improve the Administrative Reconsideration Organizations

Beijing municipal administrative reconsideration committee has a director, an executive deputy director, deputy directors, permanent members and non-permanent members (the number of non-permanent members should not be over 30). The director is also in charge of the legal work of the municipal government. The executive deputy director, deputy directors, permanent members are the officials of the legislative affairs office and other departments of the municipal government. Non-permanent members are selected in accordance with the relevant provisions.

Harbin municipal government administrative reconsideration committee includes individual members and unit members. Individual members are mainly selected from legal experts and scholars, senior lawyers, deputies of the people’s congress, members of the people’s political consultative conference, and employees of party and government organs who are familiar with the law. Individual members are hired on contract, and each term is 5 years. The unit members are composed of departments of the municipal government as the administrative reconsideration organ.

The administrative reconsideration committee of Zhongshan City of Guangdong Province has a director, a deputy director, 13 permanent members and 15 non-permanent members. The director is a deputy mayor who is also in charge of legal affairs of the city government; the deputy director may be a deputy secretary general of the municipal government or a deputy director of the municipal government office who coordinates the legal work of the municipal government; permanent members are officials of the municipal law office, the municipal supervision bureau, the municipal legislative affairs bureau and other relevant departments; non-permanent members are legal professionals and retirees, experts, scholars who do not belong to administrative organs and the term is 3 years.

3.2 The Problems of the Administrative Reconsideration Committees

From 2008 until now, many areas make efforts to explore and practice according to their own situations and characteristics and improve the administrative reconsideration system to further enhance the ability of resolving administrative disputes. The credibility of the administrative reconsideration has also been recognized by citizens. A lot of pilot units actively hire experts, scholars, legal persons and other external people to hear administrative reconsideration cases, ensure the openness and transparency in administrative reconsideration, and eliminate people's thinking of the "officials protect officials." However, in the pilot exploration, the system of the administrative reconsideration committees has also made a lot of problems.

First, the reform of the administrative reconsideration system is lack of legal protection. Most pilot areas have had a relatively centralized administrative reconsideration management, however, under the existing legal framework, we can not find the relevant legal provisions for the centralized administrative reconsideration management; second, there are no specific criteria for the classification of general cases and major or difficult cases. What is a general case? What is a major and complicated case? It all depends on the subjective decision of the administrative reconsideration office staff of the administrative reconsideration committee; third, there is no a unified model for the staff structure of administrative reconsideration committee. Although many parts of the nation have hired members of the committee from outside to achieve the fairness of administrative reconsideration work, but there is no a uniform provision for the proportion of external members in the administrative reconsideration committee; fourth, the finance of an administrative reconsideration committee is controlled by the legal department. If the finance is not independent, the work of the administrative reconsideration committee is also limited.

4. THE PROPOSALS FOR THE LEGISLATION OF IMPROVING OUR NATION'S ADMINISTRATIVE RECONSIDERATION COMMITTEE SYSTEM

From the pilot practice of the administrative reconsideration committees, we can see that, on the one hand, the existing law does not meet the requirements of the reform of the administrative reconsideration committee; on the other hand, the administrative reconsideration committee pilot system encounters legal obstacles. Therefore, we should respect the quasi-judicial nature of administrative reconsideration, and

support it in the legislation to improve the credibility of administrative reconsideration.

First of all, the administrative reconsideration committees should be independent. The quasi-judicial administrative reconsideration requires the independence of the administrative reconsideration committees. The independence is that an administrative reconsideration committee should be independent from both parties in the administrative reconsideration, and it can be independent to the exercise the right of administrative reconsideration in accordance with the law. An administrative reconsideration committee should not be subject to an administrative organ in the business and finance. Second, the administrative reconsideration committees have the right for handling the cases of administrative reconsideration, accept and hear the cases in a unified way and to decide models of the administrative reconsideration committees. When establish the centralized administrative reconsideration system, we also need to establish the personnel system of administrative reconsideration committees. The professional level of the members of a reconsideration committee will directly affect the correctness and efficiency. China's *Administrative Reconsideration Law* did not have detailed provisions on qualifications of the reconsideration personnel. In the currently pilot areas, the reconsideration committees basically take the coexistence way of administrative personnel and legal professionals. The author thinks that the administrative personnel of an administrative reconsideration committee should have a judicial examination, or work more than 5 years in a government office. So the reconsideration committee has the administrative personnel who have passed the judicial examination and legal experts and professors who do not belong to the government. When hearing the cases, the administrative reconsideration committee should combine the theory and practice, and more justly, fairly and accurately handle the cases. Again, the finance of the administrative reconsideration needs to be guaranteed. In our nation, the work funds of the administrative reconsideration come from the legal departments. In practice, the legal departments often are lack of funds. It will hinder the work of administrative reconsideration, so the administrative reconsideration committees should be independent and have their own funds, for example, unified financial allocations can ensure the smooth running of the work of administrative reconsideration. Finally, the procedure of the administrative reconsideration should have a quasi-judicial nature, such as the members' decision of an administrative reconsideration committee should be more important than the executive chief's decision in the administrative reconsideration, improving the administrative reconsideration hearing system, etc..

CONCLUSION

In China, the administrative reconsideration system is in a development stage whether it is from the time or the system design. Although some drawbacks exist in practice, this system itself will have a big development. We should further improve the system of the administrative reconsideration and have a good design of the administrative reconsideration system. According to relevant data, in the first 4 months of 2010, the handled case number of administrative reconsideration of Zhongshan City of Guangdong Province increased nearly 3 times from a year earlier, and exceeded the same level court 20%. Since the start of the pilot work, the number of cases has increased nearly 3 times in Xiamen City, Fujian Province. In Weifang City of Shandong Province, the proportion of administrative reconsideration cases and administrative litigation cases increases to 1.12:1 from 1:12 before the pilot beginning. In Jining City of Shandong Province, the number of cases increased nearly 4 times (Wang, 2013). From the above data, we can see that the pilot work of the administrative reconsideration

committee is successful. If the reconsideration committees have a completely quasi-judicial operation model, they will have remedies for citizen legitimate rights and at the same time, improve the credibility of the system of administrative reconsideration.

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